



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

AES/DCP/DKK
F.#2014R00501

*271 Cadman Plaza East
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May 11, 2018

By Hand and ECF

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Evan Greebel
Criminal Docket No. 15-637 (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter in response to the defendant's motion to adjourn the sentencing date in the above-referenced case. While the government certainly appreciates the importance of the sentencing proceeding, the defendant was convicted in December 2017 and it is time to proceed to sentencing. The defendant raises an untimely request to adjourn the sentencing for unpersuasive reasons, and his request should be denied.

The Court set the June 26, 2018 sentencing date on March 20, 2018, nearly two months ago. See DE 562. Since that time, the government has been preparing to meet the sentencing date set by the Court, including coordinating schedules for every member of the government team. Notwithstanding the fact that the defendant has known of the sentencing date for nearly two months and has not raised any conflicts until now, the defendant nonetheless criticizes the government for trying to adhere to the Court's order. Moreover, the defendant has already had almost five months to gather the "letters and other materials" he references and does not explain why he only raises this conflict now. Nor does the defendant explain why the parties should move the sentencing due to the travel schedule for one of the defendant's many attorneys—particularly since that attorney has not appeared in court since the defendant was convicted, including for oral argument on the defendant's post-trial motions—or why the defendant only raises this travel schedule now, despite knowing of the sentencing date for almost two months.

The defendant's references to a "draft" Presentence Report ("PSR") are similarly unpersuasive. As the government previously discussed with defense counsel, and as the court is undoubtedly aware, the established procedure in the Eastern District of New York is for the Probation Department to issue a PSR, to which the parties then submit responses and objections.

That PSR is not a “draft.” Upon receipt of those response and objections, Probation considers the arguments and issues an addendum to the PSR prior to sentencing. Probation does not issue a “final” PSR. The Court’s order of nearly a month ago could not be clearer: “[w]ithin one week of receiving the Pre-Sentence Report, the parties shall file simultaneous submissions regarding the loss amount in this case.” DE dated April 18, 2018. That order does not refer to a “draft,” and defense counsel has never suggested before, in appearances, in court or in writing, that it construed the Court’s order as contemplating a “draft.” Because the PSR in this case was disclosed on May 7, 2018, the briefing on loss is due this Monday, May 14, and the government is prepared to file its position on that date.¹

Accordingly, the government respectfully requests that the Court impose the following briefing schedule for the June 26, 2018 sentencing date.² The government and the defendant will submit simultaneous briefs on loss amounts on May 14, 2018 and responses on May 17, 2018. The defendant will submit his sentencing memorandum by June 5, 2018. The government will submit its sentencing memorandum by June 19, 2018. This proposed schedule provides the parties with ample time to set forth their respective positions on sentencing and for the Court to evaluate those positions in advance of the sentencing date.

Respectfully submitted,

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¹ Contrary to the defendant’s assertion that “[i]t does not make sense to submit our loss proposals until after we have had a chance to respond to the draft PSR,” sentencings in the Eastern District of New York routinely proceed with simultaneous briefing and PSR objections, and that is the process contemplated in the Court’s April 18, 2018 order in this case.

² The government notes that it first asked the defendant to consider a similar proposed schedule on April 13, 2018, but the defendant has never responded to the government’s proposal.